



Department of Public Safety and Correctional Services

Office of the Secretary Office of Government and Legislative Affairs

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STATE OF MARYLAND

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BILL: SENATE BILL 43

POSITION: LETTER OF INFORMATION

EXPLANATION: This bill will exempt an applicant for a license from submitting a set of digital fingerprints as part of a license application, if the applicant has previously submitted fingerprints as part of an application.

COMMENTS:

- The Department's Information Technology and Communications Division (ITCD) provides automated criminal justice information services for criminal justice and non-criminal justice purposes to the federal, state, and local criminal justice agencies.
- ITCD includes the Criminal Justice Information System (CJIS) Central Repository (Criminal Procedure Article, §§10-201 et seq.), which maintains Maryland's fingerprint-supported criminal identification records and criminal history record information (the Maryland "RAP" sheet), and performs related functions such as expungements.
- Pursuant to state law and federal regulation, certain applicants/licensees are obligated to provide criminal history record information to the licensing entity or private provider. Fingerprints are the biometric modality used by the Federal Bureau of Investigation (FBI), through its Next Generation Identification (NGI) system, to electronically track criminal history record information. As such, applicants/licensees who are required to submit to a background check must submit fingerprints directly to the CJIS for the purpose of obtaining criminal history record checks. CJIS uses the fingerprints to verify the identity of the applicant and to determine if any criminal history record information is present.
- CJIS does store fingerprints, but there is no technological way to revalidate the fingerprints match the applicant/licensee without obtaining a new set of fingerprints. **If SB 43 were to pass, CJIS would have to revert to a name-based search for criminal history record information.** In other words, if an applicant/licensee who had already had his/her fingerprints taken several years ago were to apply for a new application/license, under this bill, CJIS could only do a criminal history records check by name. Since there may be people with the same name, the results would be unreliable.

- Additionally, the FBI only retains fingerprints for 30 days. Therefore, in order to obtain federal criminal history record information, a new set of fingerprints is required for any new license application submitted 30 days after the initial fingerprints were taken.
- SB 43 would cost the Department \$750,000 to reprogram its operation in order to implement the change in search process.
- The Department understands the bill Sponsor has the following proposed amendments to the bill:

AMENDMENT NO. 1

On page 1, strike in their entirety lines 2 through 26, inclusive, and substitute: “Department of Public Safety and Correctional Services – FBI’s Rap Back Service Program”

For the purpose of requiring the Department of Public Safety and Correctional Services to make diligent efforts to implement the Federal Bureau of Investigation’s Next Generation Rap Back Service Program in the State as soon as possible; requiring the Department to report to certain committees of the General Assembly on or before a certain date; and generally relating to the Department of Public Safety and Correctional Services.

AMENDMENT NO. 2

On pages 2 and 3, strike in their entirety the lines beginning with line 1 on page 2 through line 32 on page 3, inclusive, and substitute:

“SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That: THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES SHALL MAKE DILIGENT EFFORTS TO IMPLEMENT THE FEDERAL BUREAU OF INVESTIGATION’S NEXT GENERATION IDENTIFICATION RAP BACK SERVICE PROGRAM IN THE STATE AS SOON AS POSSIBLE.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before November 1, 2020, the Department of Public Safety and Correctional Services shall report to the Senate Judicial Proceedings Committee and the House Judiciary Committee, in accordance with § 2-1257 of the State Government Article, on:

- (1) the status of implementation of the Federal Bureau of Investigation’s Next Generation Identification Rap Back Service Program in the State; or*
- (2) if the Department has been unable to implement the program:*
 - (i) an explanation why the Department has been unable to implement the program; and*

(ii) an estimate of when the implementation of the program will occur.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2020.”

- The Department has been working diligently to implement Rap Back and feels this legislation is unnecessary. The Department is happy to provide the Sponsor, as well as the Committee, with a status report.

CONCLUSION: For these reasons, the Department of Public Safety and Correctional Services respectfully requests this Committee consider this information it deliberates on Senate Bill 43.